

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

THOMAS EARLE,)
Plaintiff,)
v.) C.A. No. 08-106 Erie
RAYMOND SOBINA, et al.)
Defendants.)

ORDER

Plaintiff's petition was received by the Clerk of Court on April 30, 2008 (Doc. 3), and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's report and recommendation, filed on February 9, 2011 (Doc. 12), recommended that the Petition for Writ of Habeas Corpus be dismissed and that a certificate of appealability be denied. The parties were allowed until February 28, 2011 to file objections. Service was made on Plaintiff at SCI Albion, where he is incarcerated, and on Defendants. No objections were filed. After de novo review of the petition, response, and relevant documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 16th day of March, 2011, it is HEREBY ORDERED, ADJUDGED, and DECREED that the Petition for Writ of Habeas Corpus be DISMISSED as premature.

IT IS FURTHER ORDERED that the certificate of appealability be DENIED. The report and recommendation, dated February 9, 2011, is adopted as the opinion of the court.

Maurice B. Cohill, Jr.
Maurice B. Cohill, Jr.,
Senior United States District Judge

cc: Susan Paradise Baxter
U.S. Magistrate Judge

all parties of record _____